



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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OCT 18 2012

U.I.L 414.08-00

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Attention: XXX

LEGEND:

Entity A	= XXX
Religion B	= XXX
Division X	= XXX
Area J	= XXX
Leader K	= XXX
School C	= XXX
State D	= XXX
State E	= XXX
Country H	= XXX
Person Z	= XXX
Plan 1	= XXX
Plan 2	= XXX
Plan 3	= XXX
Plan 4	= XXX
Plan 5	= XXX

Dear XXX:

This is in response to correspondence dated November 16, 2009, as supplemented by correspondence dated November 14, 2011, December 12, 2011, January 11, 2012, February 10, 2012, and May 3, 2012, submitted on behalf of Entity A by its authorized representative, concerning whether Plan 1, Plan 2, Plan 3, Plan 4, and Plan 5 qualify as church plans under section 414(e) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalty of perjury in support of the rulings requested:

Entity A is a State E non-profit corporation incorporated on April 4, 1979 that controls School C, a secondary school that provides education under the auspices of Division X and Religion B.

Division X was founded by Person Z as a religious division of Religion B and is listed in the official directory of Religion B. In the United States, Division X is divided into ten geographic areas. Each of these areas is led by a Leader. Entity A is located in Area J and led by Leader K.

At its inception, School C was part of a group of schools founded in 1877 in State D by members of Division X, who moved to the United States from Country H. In the nineteenth century, the group of schools merged and moved from State D to State E. The merged schools operated both a high school and a college. In 1921, School C, the high school, separated from the other schools and later formed Entity A.

Entity A is a not-for-profit corporation which is exempt from federal income tax under section 501(a) of the Code as an organization described in section 501(c)(3). The Articles of Incorporation of Entity A provide that it is organized for charitable, educational, and religious purposes and that its primary purpose is to provide education in the tradition of Division X and in conformity with the teaching of Religion B. The Articles provide for a Board of Members and Board of Trustees.

The Articles also provide that, upon dissolution, the assets of Entity A are to be distributed to Division X in Area J, provided that such an organization is in existence and has an exempt status under section 501(c)(3) of the Code. If the organization is no longer in existence or declines to accept those assets, the assets are to be distributed to one or more Religion B secondary education organizations in State E that have an exempt status at the date of dissolution that have been designated by Leader K.

In order to ensure that the educational program of Entity A remains rooted in the tenets of Religion B, the Articles of Incorporation for Entity A required that the

governing body with ultimate control over its direction, the Board of Members, be comprised entirely of members of Division X of Religion B. The Board of Members controls who sits on the Board of Trustees and ensures that Entity A's program remains consonant with the teachings of Religion B. As a result, Religion B, through Division X, controls the Board of Members, the Board of Trustees and, accordingly, Entity A.

The Board of Members consists of no fewer than three and no more than five members, all of whom must be members in good standing of Division X. The Articles of Incorporation provide that one of the seats reserved for a member in good standing of Division X may be filled by a member of another division of Religion B, who understands well the mission of Division X.

The Board of Members has three *ex officio* members: the highest ranking member of Division X at Entity A; the President of Entity A, if that person is a member of Division X; and any official of Religion B who is also a member in good standing of Division X and who has been named by Leader K. Should any member of the Board of Members cease to function as a member in good standing of Division X or of another division of Religion B, that member shall immediately cease to be a member of the Board of Members of Entity A.

Among the duties of the Board of Members are the following: the approval of all individuals proposed for election to the Board of Trustees and the removal of Trustees, with or without cause; to maintain and foster the development of the Division X philosophy of education and Division X traditions and pedagogy at Entity A in accordance with the laws and pronouncements of the official Division X Education Association; and to determine and approve any major changes in the philosophy, identity, and nature of Entity A.

The management and control of Entity A, other than those duties and responsibilities specifically reserved to the Board of Members, is vested in the Board of Trustees. The Board of Members elects all of the members of the Board of Trustees. The Board of Trustees has a minimum of fifteen and a maximum of twenty-five members, at least five of whom must be members of Division X. Two of the members are *ex officio*: the President of Entity A, and the highest ranking member of Division X at Entity A.

The principal responsibility of the Board of Trustees stated in the Articles of Incorporation is to partner with the Board of Members to safeguard the Division X character of Entity A, the Division X philosophy of education, Division X traditions and pedagogy, the operation of Entity A, and the conduct of the affairs of Entity A, including both educational and financial matters and the policies under which the corporation operates.

The Board of Trustees determines the number of trustees who shall serve at any one time and elects its members. No individual can be elected to the Board of Trustees without the prior approval of the Board of Members.

The Board of Trustees elects its chairman. This chairman may resign at any time or may be removed by a vote of two thirds of the Board of Trustees. The President of Entity A is elected by a majority vote of the Board of Trustees. The President does not have to be a member of Division X, but must be a practicing member of Religion B.

On November 1, 1979, Entity A adopted Plan 1, a defined contribution plan intended to meet the requirements of section 403(b) of the Code. Entity A did not make an election under section 410(d) of the Code

On January 1, 2004, Entity A adopted Plan 2, Plan 3, Plan 4, and Plan 5, all of which are welfare benefit plans.

The participants in Plan 1, Plan 2, Plan 3, Plan 4, and Plan 5 ("Plans") are eligible current and former employees of Entity A. The Plans have no eligible participants that are employed in connection with one or more unrelated trades or businesses within the meaning of section 513 of the Code.

The administrative control of the Plans is vested in Entity A's Board of Members. By resolution dated November 3, 2009, the Board of Members established a Committee, consisting of the following Entity A employees: the President, the highest ranking member of Division X, the Chief Financial Officer, the Business Manager, and the Payroll and Benefits Specialist. The Committee's primary purpose and function is the administration of the Plans. The Board of Members has final oversight over the actions of the Committee. The Committee is controlled by and shares common religious bonds with Religion B through the controlling power that Division X exercises over Entity A's Board of Trustees and Board of Members.

In accordance with Revenue Procedure 2011-44, Notice to Employees with reference to Plan 1 was provided on November 10, 2011. This notice explained to participants of Plan 1 the consequences of church plan status.

Based on the foregoing, you request a ruling that the Plans are church plans within the meaning of section 414(e) of the Code.

Section 414(e)(1) of the Code generally defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or a convention or association of churches which is exempt from taxation under section 501 of the Code.

Section 414(e)(2) of the Code provides, in part, that the term "church plan" does not include a plan that is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513 of the Code); or if less than substantially all of the individuals included in the plan are individuals described in section 414(e)(1) of the Code or section 414(e)(3)(B) of the Code (or their beneficiaries).

Section 414(e)(3)(A) of the Code provides that a plan established and maintained for its employees (or their beneficiaries) by a church or a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association churches, if such organization is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(B) of the Code generally defines "employee" of a church or a convention or association of churches to include a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry, regardless of the source of his or her compensation, and an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Code, and which is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(C) of the Code provides that a church or a convention or association of churches which is exempt from tax under section 501 of the Code shall be deemed the employer of any individual included as an employee under subparagraph (B).

Section 414(e)(3)(D) of the Code provides that an organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

Revenue Procedure 2011-44, 2011-39 I.R.B. 446 supplements the procedures for requesting a letter ruling under section 414(e) of the Code relating to church plans. The revenue procedure: (1) requires that plan participants and other interested persons receive a notice in connection with a letter ruling request under section 414(e) of the Code for a qualified plan; (2) requires that a copy of the notice be submitted to the Internal Revenue Service ("IRS") as part of the ruling request; and, (3) provides procedures for the IRS to receive and consider comments relating to the ruling request from interested persons.

In order for an organization that is not itself a church or convention or association of churches to have a qualified church plan, it must establish that its employees are employees or deemed employees of a church or convention or association of churches under section 414(e)(3)(B) of the Code by virtue of the organization's control by or affiliation with the church or convention or association of churches. Employees of any organization maintaining a plan are considered to be church employees if the organization: (1) is exempt from tax under section 501 of the Code; and, (2) is controlled by or associated with a church or convention or association of churches. In addition, in order to be a church plan, the administration or funding (or both) of the plan must be by an organization described in section 414(e)(3)(A) of the Code. To be described in section 414(e)(3)(A) of the Code, an organization must have as its principal purpose the administration or funding of the plan and must also be controlled by or associated with a church or convention or association of churches.

Entity A is a not-for-profit corporation which is exempt from federal income tax under section 501(a) of the Code as an organization described in section 501(c)(3) of the Code. Entity A is listed in the Annual Directory of Religion B. The primary purpose of Entity A is to provide education in the tradition of Division X and in conformity with the teaching of Religion B. Entity A is governed by the Board of Members, a majority of whom are members of Division X, and all of whom are members of Religion B. The members of Division X are overseen by Leader K.

In view of the common religious bonds between Entity A and Religion B, the inclusion of Entity A in the Annual Directory of Religion B, and the indirect control of Entity A by Religion B through the Board of Members, we conclude that Entity A is associated with a church or convention or association of churches within the meaning of section 414(e)(3)(D) of the Code, that the employees of Entity A meet the definition of employee under section 414(e)(3)(B) of the Code, and that they are deemed to be employees of a church or a convention or association of churches by virtue of being employees of an organization which is exempt from tax under section 501 of the Code and which is controlled by or associated with a church or a convention or association of churches.

The administrative control of the Plans is vested in the Committee. The Committee is controlled by and shares common religious bonds with Religion B through the controlling power that Division X exercises over Entity A's Board of Trustees and Board of Members. The Committee's primary purpose and function is the administration of the Plans. Therefore, we conclude that the administration of the Plans satisfies the requirements regarding church plan administration under section 414(e)(3)(A) of the Code. Accordingly, the Plans are maintained by an organization that is associated with a church or convention or association of churches, and the principal purpose or function of which is the administration of the Plans for the provision of retirement and welfare benefits for the deemed employees of a church or convention or association of churches.

Based on the foregoing facts and representations, we conclude that Plan 1, Plan 2, Plan 3, Plan 4, and Plan 5, maintained by Entity A, are church plans pursuant to section 414(e) of the Code.

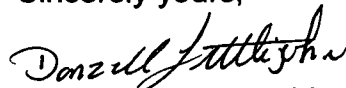
This letter expresses no opinion as to whether Plan 1 satisfies the requirements of section 403(b) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative. Should you have any concerns regarding this letter, please contact XXX, SE:T:EP:RA:T2, at (XXX) XXX-XXXX.

Sincerely yours,



Donzell Littlejohn, Manager
Employee Plans Technical Group 2

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

CC:

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